



September 16, 2002

FILED ELECTRONICALLY

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Notice in CC Docket Nos. 01-338, 96-96 and 98-147 and WC
Docket No. 02-202

Dear Ms. Dortch:

On Friday, September 13, H. Russell Frisby, Jr., Jonathan D. Lee and the undersigned, representing The Competitive Telecommunications Association ("CompTel"), met with Bill Maher and Deena Shettler of the Wireline Competition Bureau to discuss the above-mentioned proceedings. Pursuant to Section 1.1206 of the FCC's rules, our presentation and this letter are being filed electronically for inclusion in the public record of each of these dockets.

Please contact the undersigned if you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink that reads "Maureen Flood". The signature is written in a cursive, flowing style.

Maureen Flood
Director, Regulatory and State Affairs



Briefing on Critical Local Competition Issues

H. Russell Frisby, Jr., President

Jonathan D. Lee, Vice President, Regulatory Affairs

Maureen Flood, Director, Regulatory and State Affairs

September 13, 2002



CompTel represents competitive telecommunications providers of all types, their partner suppliers and their service partners. The fundamental mission of CompTel is to protect and advance the interests of its member companies so as to ensure the survival and prosperity of the competitive telecommunications industry in the United States and overseas. CompTel's members include the leading companies building and deploying next-generation, packet and IP-based networks to provide voice, data and video services around the world.

USTA v. FCC

The FCC Should Seek Certiorari of *USTA v. FCC*

- The decision is poorly reasoned and it is detrimental to the growth of competition.
- The decision is in direct conflict with *Verizon v. FCC*, undermining the credibility of any future FCC action.
- The decision harms the Commission's rulemaking ability by misapplying the *Chevron* standard.

Triennial UNE Review

Role of the State Commissions

- **State commissions must have a significant role, particularly given their greater familiarity with local competitive conditions.**
- **The FCC should adopt a federal floor, which states can exceed under Section 251(d)(3) or independent state authority.**

Triennial UNE Review

Role of the State Commissions (Cont.)

- States with the most competition have required the greatest unbundling obligations, especially with regard to UNE-P and advanced services.
- Consumers are benefiting from the state commissions' implementation of the FCC's rules
 - ❑ Rate decreases (Michigan, Ohio)
 - ❑ New calling packages

Triennial UNE Review

Removing UNEs Will Harm Consumers and Carriers

- Facilities are being deployed today by retail CLECs and wholesale carriers.
- Wholesale carriers need healthy CLECs, ISPs, IXC and wireless carriers—removing UNEs could have a dangerous ripple effect.
- If UNEs are removed, there is insufficient capital to replace these facilities through self-provisioning: no UNEs = no build-out.
 - ❑ High capacity loops and transport
 - ❑ Dark fiber
 - ❑ Switching

The Issue Is Price, Not Impairment

The RBOC's Motivation Is To Maintain Monopoly Revenues, Even In The Face of Competition

- The Supreme Court has affirmed TELRIC
- TELRIC rates simulate and stimulate competition—they do not mimic or perpetuate rates in a monopoly environment
- TELRIC-based UNE rates are based on forward looking cost *plus a reasonable profit*, not monopoly rents.
- BOCs' demands for more regulated revenue ignore their own responsibility to develop a more efficient cost structure

ILEC Security Deposit Tariff Modification Requests

- **The FCC must carefully scrutinize requests for tariff modifications that give ILEC's broader discretion to require large deposits**
- **ILECs that are retail competitors and wholesale suppliers already have anticompetitive incentives**
- **Broader discretion to raise costs to wholesale customers expands the ability to act on existing incentives to reduce competition**